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10 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
11 **STATE OF CALIFORNIA**

12 In the Matter of the Petition to Revoke Probation
Against:

Case No. 2005-110

13 **ANNE MARIE HEGARTY**
14 9522 Joyzelle Drive
Garden Grove, California 92641

**PETITION TO REVOKE
PROBATION**

15 Registered Nurse License No. 386118
16 Public Health Nurse Certificate No. 46283

17 Respondent.

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19 Ruth Ann Terry, M.P.H., R.N. ("Complainant") alleges:

20 **PARTIES**

21 1. Complainant brings this Petition to Revoke Probation solely in her official
22 capacity as the Executive Officer of the Board of Registered Nursing, Department of Consumer
23 Affairs.

24 **Registered Nurse License**

25 2. On or about June 30, 1985, the Board of Registered Nursing issued
26 Registered Nurse License No. 386118 ("license") to Anne Marie Hegarty ("Respondent"). The
27 license was in effect at all times relevant to the charges brought herein, and expired on
28 February 28, 2007.

1 **Public Health Nurse Certificate**

2 3. On or about June 5, 1990, the Board of Registered Nursing issued Public
3 Health Nurse Certificate No. 46283 ("certificate") to Respondent. The certificate was in effect at
4 all times relevant to the charges brought herein, and expired on February 28, 2007.

5 **JURISDICTION**

6 4. Business and Professions Code ("Code") section 2750 provides, in
7 pertinent part, that the Board may discipline any licensee, including a licensee holding a
8 temporary or an inactive license, for any reason provided in Article 3 (commencing with section
9 2750) of the Nursing Practice Act.

10 5. Code section 2764 provides, in pertinent part, that the expiration of a
11 license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding
12 against the licensee or to render a decision imposing discipline on the license. Under Code
13 section 2811, subdivision (b), the Board may renew an expired license at any time within eight
14 years after the expiration.

15 **Prior Discipline**

16 6. In a disciplinary action entitled "In the Matter of the Accusation Against
17 Anne Marie Hegarty," Accusation No. 2005-110, the Board of Registered Nursing issued a
18 Decision. Effective March 6, 2006, pursuant to the Decision, Respondent's Registered Nurse
19 License No. 386118 and Public Health Nurse Certificate No. 46283 were both revoked.
20 However, the revocations were stayed and Respondent's license and certificate were placed on
21 probation for a period of five (5) years with certain terms and conditions. A copy of that
22 Decision is attached as **Exhibit A** and is incorporated by reference.

23 7. Grounds exist for revoking the probation and reimposing the order of
24 revocation of Respondent's Registered Nurse License No. 386118 and Public Health Nurse
25 Certificate No. 46283. Condition 13 of the Decision and Order states, in pertinent part:

26 If Respondent violates that conditions of her probation, the Board after
27 giving the Respondent notice and an opportunity to be heard, may set aside the
28 stay order and impose the stayed discipline (revocation/suspension) of the
Respondent's license.

1 If during the period of probation, an accusation or petition to revoke
2 probation has been filed against Respondent's license or the Attorney General's
3 Office has been requested to prepare an accusation or petition to revoke probation,
the probationary period shall automatically be extended and shall not expire until
the accusation or petition has been acted upon by the Board.

4 8. Respondent violated the Probation Program, as set forth in the following
5 paragraphs:

6 **FIRST CAUSE TO REVOKE PROBATION**

7 **(Failure to Submit Fingerprint Forms and Fees)**

8 9. At all times after the effective date of Respondent's probation, Condition 2
9 stated, in part:

10 Respondent shall obey all federal, state and local laws. A full and detailed
11 account of any and all violations of law shall be reported by the respondent to the
12 Board in writing within 72 hours of occurrence. To permit monitoring of
13 compliance with this condition, Respondent shall submit completed fingerprint
forms and fingerprint fees within 45 days of the effective date of the decision,
unless previously submitted as part of the licensure application process.

14 10. Respondent's probation is subject to revocation because she failed to
15 comply with Probation Condition 2, referenced above. The facts and circumstances regarding
16 this violation are that Respondent failed to submit fingerprint forms and fees within 45 days of
17 the effective date of the decision.

18 **SECOND CAUSE TO REVOKE PROBATION**

19 **(Failure to Comply with the Probation Program)**

20 11. At all times after the effective date of Respondent's probation, Condition 3
21 stated, in part:

22 Respondent shall fully comply with the conditions of the Probation
23 Program established by the Board and cooperate with representatives of the Board
24 in its monitoring and investigation of the Respondent's compliance with the
25 Board's Probation Program. Respondent shall inform the Board in writing within
no more than 15 days of any address change and shall at all times maintain an
active, current license with the Board, including during any period of suspension.

26 12. Respondent's probation is subject to revocation because she failed to
27 comply with Probation Condition 3, referenced above. The facts and circumstances regarding
28 this violation are, as follows:

1 a. Respondent failed to comply with the conditions of the Probation
2 Program, as more particularly set forth in paragraphs 10, 12, 14, 16, 18, 20, 22, and 24 of this
3 Petition to Revoke Probation.

4 b. Respondent failed to cooperate with the representatives of the Board.

5 c. Respondent failed to maintain an active current license and certificate.
6 The license and certificate both expired on February 28, 2007.

7 **THIRD CAUSE TO REVOKE PROBATION**

8 **(Failure to Report in Person)**

9 13. At all times after the effective date of Respondent's probation, Condition 4
10 stated:

11 Respondent, during the period of probation, shall appear in person at
12 interviews/meetings as directed by the Board of its designated representatives.

13 14. Respondent's probation is subject to revocation because she failed to
14 comply with Probation Condition 4, referenced above. The facts and circumstances regarding
15 this violation are that Respondent failed to appear for her probation interview scheduled for
16 March 13, 2007.

17 **FOURTH CAUSE TO REVOKE PROBATION**

18 **(Failure to Comply with Residency, Practice or Licensure Outside the State)**

19 15. At all times after the effective date of Respondent's probation, Condition 5
20 stated:

21 Periods of residency or practice as a registered nurse outside of California
22 shall not apply toward a reduction of this probation time period. Respondent's
23 probation is tolled, if and when she resides outside of California. Respondent
24 must provide written notice to the Board within 15 days of any change of
25 residency or practice outside the state, and within 30 days prior to re-establishing
26 residency or returning to practice in this state.

27 Respondent shall provide a list of all states and territories where she has
28 ever been licensed as a registered nurse, vocational nurse, or practical nurse.
Respondent shall further provide information regarding the status of each license
and any changes in such license status during the term of probation. Respondent
shall inform the Board if she applies for or obtains a new nursing license during
the term of probation.

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1 16. Respondent's probation is subject to revocation because she failed to
2 comply with Probation Condition 5, referenced above. The facts and circumstances regarding
3 this violation are that Respondent failed to provide the Board with a list of all states and
4 territories where she has ever been licensed as a registered nurse, vocational nurse, or practical
5 nurse, including the status of each license.

6 **FIFTH CAUSE TO REVOKE PROBATION**

7 **(Failure to Submit Written Reports)**

8 17. At all times after the effective date of Respondent's probation, Condition 6
9 stated:

10 Respondent, during the period of probation, shall submit or cause to be
11 submitted such written reports/declarations and verification of actions under
12 penalty of perjury, as required by the Board. These reports/declarations shall
13 contain statements relative to Respondent's compliance with all the conditions of
14 the Board's Probation Program. Respondent shall immediately execute all release
15 of information forms as may be required by the Board or its representatives.

16 Respondent shall provide a copy of this decision to the nursing regulatory
17 agency in every state and territory in which she has a registered nurse license.

18 18. Respondent's probation is subject to revocation because she failed to
19 comply with Probation Condition 6, referenced above. The facts and circumstances regarding
20 this violation are as follows:

21 a. Respondent failed to submit the required Data Report form by
22 February 13, 2006.

23 b. Respondent failed to submit the required current resume, or work history
24 for the past 5 years by February 13, 2006.

25 c. Respondent failed to submit a list of educational class work completed in
26 the previous 2 years by February 13, 2006.

27 d. Respondent failed to submit her current daytime telephone number by
28 February 13, 2006.

 e. Respondent failed to submit her Quarterly Reports for the first 3 quarters
of 2007.

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1 f. Respondent failed to submit the required On-Going Treatment Verification
2 form by April 27, 2007.

3 g. Respondent failed to submit the required Mental Health Examination form
4 by April 7, 2007.

5 **SIXTH CAUSE TO REVOKE PROBATION**

6 **(Failure to Function as a Registered Nurse)**

7 19. At all times after the effective date of Respondent's probation, Condition 7
8 stated, in part:

9 Respondent, during the period of probation, shall engage in the practice of
10 registered nursing in California for a minimum of 24 hours per week for 6
consecutive months or as determined by the Board.

11 20. Respondent's probation is subject to revocation because she failed to
12 comply with Probation Condition 7, referenced above. The facts and circumstances regarding
13 this violation are that Respondent failed to function as a registered nurse for a minimum of
14 24 hours per week for 6 consecutive months in a position approved by the Board and,
15 Respondent has expressed to the Board her intent to never again function as a registered nurse.

16 **SEVENTH CAUSE TO REVOKE PROBATION**

17 **(Failure to Complete Nursing Course(s))**

18 21. At all times after the effective date of Respondent's probation,
19 Condition 11, stated:

20 Respondent, at her own expense, shall enroll and successfully complete a
21 course(s) relevant to the practice of registered nursing no later than six months
prior to the end of her probationary term.

22 Respondent shall obtain prior approval from the Board before enrolling in
23 the course(s). Respondent shall submit to the Board the original transcripts or
24 certificates of completion for the above required course(s). The Board shall return
the original documents to Respondent after photocopying them for its records.

25 22. Respondent's probation is subject to revocation because she failed to
26 comply with Probation Condition 11, referenced above. The facts and circumstances regarding
27 this violation are that Respondent failed to complete any of the required nursing courses or
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1 cooperate with the Board to establish the appropriate courses to be taken and, Respondent
2 expressed to the Board her intent to never again complete any nursing courses.

3 **EIGHTH CAUSE TO REVOKE PROBATION**

4 **(Failure to Pay Costs)**

5 23. At all times after the effective date of Respondent's probation,
6 Condition 12, stated, in part:

7 Respondent shall pay to the Board costs associated with its investigation
8 and enforcement pursuant to Business and Professions Code section 125.3 in the
9 amount of \$4,166. Respondent shall be permitted to pay these costs in a payment
plan approved by the Board, with payments to be completed no later than three
months prior to the end of the probation term.

10 24. Respondent's probation is subject to revocation because she failed to
11 comply with Probation Condition 12, referenced above. The facts and circumstances regarding
12 this violation are that to date, Respondent has not paid any portion of said costs nor has she
13 cooperated with the Board in order to establish an appropriate payment plan and, Respondent has
14 expressed to the Board her intent to never pay any portion of said costs.


15 **PRAYER**

16 **WHEREFORE**, Complainant requests that a hearing be held on the matters
17 herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

18 1. Revoking the probation that was granted by the Board of Registered
19 Nursing in Case No. 2005-110 and imposing the disciplinary order that was stayed thereby
20 revoking Registered Nurse License No. 386118 and Public Health Nurse Certificate No. 46283,
21 issued to Anne Marie Hegarty; and

22 2. Taking such other and further action as deemed necessary and proper.

23
24 DATED: 5/12/08

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RUTH ANN TERRY, M.P.H., R.N.
26 Executive Officer
27 Board of Registered Nursing
Department of Consumer Affairs
State of California
28 Complainant

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Exhibit A
Decision and Order
Board of Registered Nursing Case No. 2005-110

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

ANNE MARIE HEGARTY
9522 Joyzelle Drive
Garden Grove, CA 92641

Registered Nurse License No. 386118
Public Health Nurse Certificate No. 46283,

Respondent.

Case No. 2005-110

OAH No. L2005070599

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Registered Nursing as its Decision in the above-entitled matter.

This Decision shall become effective March 2, 2006.

IT IS SO ORDERED January 30, 2006.

BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By

LaTrine H. Tate

rfm

**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**ANNE MARIE HEGARTY
9522 Joyzelle Drive
Garden Grove, CA 92641**

**Registered Nurse License No. 386118
Public Health Nurse Certificate No. 46283**

Respondent.

Case No. 2005-110

OAH No. L2005070599

PROPOSED DECISION

This matter was heard by Julie Cabos-Owen, Administrative Law Judge with the Office of Administrative Hearings on October 12, 2005, in Los Angeles, California. Complainant was represented by Susan Fitzgerald, Deputy Attorney General. Anne Marie Hegarty (Respondent) was present and was represented by Edward O. Lear, Attorney at Law.

Oral and documentary evidence was received and argument was heard. The record was closed, and the matter was submitted for decision on October 12, 2005.

FACTUAL FINDINGS

1. On January 5, 2005, Complainant Ruth Ann Terry, M.P.H., R.N., filed the Accusation while acting in her official capacity as the Executive Officer of the Board of Registered Nursing (Board), Department of Consumer Affairs, State of California.
2. On June 30, 1985, the Board issued Registered Nurse license number 386118 to Respondent. The Registered Nurse license will expire February 28, 2007, unless renewed.
3. On June 5, 1990, the Board issued Public Health Nurse certificate number 46283 to Respondent. The Public Health Nurse certificate will expire February 29, 2007, unless renewed.

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4. On June 23, 2003, in the Superior Court of the State of California, County of Orange, 02WF0760, entitled *The People of the State of California v. Anne Marie Hegarty*, Respondent was convicted, after a court trial, of violating Vehicle Code section 20001, subdivision (a) (hit and run with resulting death), and Penal Code section 192, subdivision (c)(1) (vehicular manslaughter with gross negligence), both felonies.

5. As a result of her June 23, 2003 convictions, Respondent was placed on five years formal probation and ordered to serve 365 days in county jail, with 162 days credit for time served. She was also ordered to pay a \$500 restitution fine and restitution in an amount to be determined by her probation officer. She was further ordered to cooperate with her probation officer in any plan for psychiatric or psychological counseling and to complete 250 hours of community service. Respondent's driver's license was also suspended for one year.

6. Respondent's convictions are substantially related to the qualifications, functions and duties of a licensee. Killing a person through gross negligence indicates a disregard for human life, and fleeing the scene of an accident demonstrates a willingness to employ evasive means to avoid responsibility for one's negligence. Both characteristics evidence a potential unfitness to perform nursing functions in a manner consistent with the public health, safety and welfare. (Cal.Code Regs., tit.16, §1444.)

7. The facts and circumstances surrounding the convictions are as follows:
On the evening of January 23, 2002, Respondent drove her vehicle at a speed of 40 to 50 miles per hour through a red light at a major intersection and struck a 14-year-old male bicyclist. After being hit the front passenger side of Respondent's vehicle, the boy was thrown into the air and landed on the roadway to the right of the vehicle as Respondent drove by. After the collision, Respondent knowingly failed to immediately stop the vehicle and give reasonable assistance to the injured bicyclist. Instead, she continued at the same rate of speed, turning right on the first available street, into a residential tract. An off-duty police officer witnessed the accident and followed Respondent's vehicle after it fled the scene, eventually stopping her. The boy died at the scene of the accident. Respondent's vehicle sustained damage to the front passenger side and to the left side of the windshield.

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8. Respondent has maintained her innocence since the night of the accident and continued to do so in her testimony. She contended that she entered the intersection on a yellow light. She further testified that she did not realize she had struck the bicyclist, because her radio was turned up at the time and because it was dark outside. Respondent's testimony is not credible for the following reasons:

(a) Respondent's testimony that the light was yellow when she entered the intersection was contradicted by the testimony of the off-duty police officer who witnessed the accident. The officer's testimony was supplemented and corroborated by the statements of witnesses in the police report.¹

(b) Respondent's testimony that she did not know she struck the bicyclist was contradicted by the damage to her vehicle and the fact that the bicyclist was thrown into the air, both indicating that the force of the impact was very strong. It is not believable that Respondent could have missed such a strong impact, even with the radio volume up. Furthermore, it is not believable that she was oblivious to a 14-year-old's body flying into the air and landing next to her vehicle, just past a major, lighted intersection.

9. There was testimony from various witnesses, including Respondent, regarding whether Respondent's turning into a residential tract after the accident was additional evidence of Respondent's knowledge of the accident. This Decision will not address the various analyses regarding why Respondent turned down that street, which included discussions of whether it was in fact a shortcut to a store, and regarding why Respondent made a three-point turn while on that street. Respondent's knowledge of the accident has already been factually established. (See Factual Findings 7 and 8(b).) Additionally, her knowledge of the accident has been legally established, since such knowledge is an element of the crime for which she was convicted (Pen. Code §192, subd. (c)(1)), and the conviction cannot now be impeached. (See *Arneson v. Fox* (1980) 28 Cal.3d 440.)

10a. In an April 16, 2004 letter to the Board, Respondent explained,

"[The bicyclist] was riding on wrong side of street with no helmet or light on his bicycle – dashed across the street and hit my car on the passenger side.

There was another car, we think (which came around corner) he tried to avoid & ran into me."

10b. Complainant alleged, as a factor in aggravation, that Respondent's assertion in the letter "was false and an attempt to blame the victim for Respondent's own gross negligence in hitting and killing the young man." (Accusation, p. 3, para. 6.) It was not

¹ The witness statements were admitted as administrative hearsay, pursuant to *Lake v. Reed* (1997) 16 Cal.4th 448.

proven that any of the facts set forth in the explanation were false. However, the explanation was misleading in that Respondent admitted no fault for the accident by running the red light, but instead characterized the events in a way that blamed the victim for his own death. It also failed to account for the fact that she fled the scene of the accident. This mischaracterization of events does not quite rise to the level of a factor in aggravation. However, it does evidence a lack of rehabilitation at that point in time, given Respondent's inability to accept responsibility for her actions.

11. Respondent has been a registered nurse (RN) since 1957. She moved to the United States from London, England in 1959 and immediately began working as an RN. In 1989, she moved to California and continued her nursing career. She has worked in numerous areas of nursing, ranging from "delivering babies to caring for 95-year-old surgical patients." She has also been employed at various times teaching licensed vocational nurses. After September of 2004, she stopped working for private nursing registries and in home care. She worked in an acute care children's hospital at the end of 2004. However, since January 3, 2005, she has done no nursing of any kind.

12. Respondent tearfully demonstrated great remorse for the bicyclist's death, which she admitted she caused. She bitterly pointed out the irony that she had spent most of her adult life trying to keep people healthy and now must live with the fact that she was responsible for the death of another human being. Her demeanor during her testimony was generally frantic, punctuated by defensiveness, overwhelming anguish, and frustration over her inability to remedy the situation. She had the comportment of someone who was used to maintaining control and was ill-equipped to accept loss of this role. While she admitted the general proposition that she had caused the death of the bicyclist, she was unable to admit the truth of the details involved in her crimes (i.e. that she ran the red light, that she knew the accident took place and that she fled the scene of the accident). It is not clear whether her failure to admit the details stemmed from her unwillingness to do so (despite knowledge to the contrary) or her inability to do so (based upon complete denial of the horrible truth).

13. Respondent has no record of prior discipline against her license.

14. Respondent is scheduled to remain on probation until 2007.

15. Respondent has the support of her friends, two of whom offered testimony, collectively characterizing her as caring, hardworking, dependable and honest.

16. Complainant submitted evidence of the following costs of prosecution of this matter:

(a) For the fiscal year 2004/2005, Office of the Attorney General Costs: Deputy Attorney General Fitzgerald billed 4.50 hours @ \$139 (subtotal \$625.50);

(b) For the fiscal year 2005/2006, Office of the Attorney General Costs: Deputy Attorney General Fitzgerald billed 20.25 hours @ \$146 (subtotal \$2,956.50), plus another 4.00 hours @ \$146 (subtotal \$584).

(c) The Attorney General costs included billing for: "Initial case evaluation, pleading preparation, discussing case with client, reviewing evidence and law, and similar activities related to the preparation and filing of the Accusation. . . Case management. . . Discovery. . . [and] Trial Preparation, including preparing and issuing subpoenas, drafting cover letters, telephone conversations, and correspondence with witnesses reviewing documents produced by respondent, discussions with client."

(d) The total Attorney General costs billed to the Board were \$4,166.00.

17. The evidence established that Complainant incurred total costs of \$4,166.00 in the prosecution of this matter, all of which were reasonable.

LEGAL CONCLUSIONS

1. Cause exists to revoke or suspend Respondent's registered nurse license, pursuant to Business and Professions Code section 2761, subdivision (f), and California Code of Regulations, title 16, section 1444, on the grounds that Respondent has been convicted of crimes which are substantially related to the qualifications, functions and duties of a registered nurse, as set forth in Factual Findings 4, 5, 6 and 7.

2. Cause exists to revoke or suspend Respondent's public health nurse certificate, pursuant to Business and Professions Code section 2761, subdivision (f), and California Code of Regulations, title 16, section 1444, on the grounds that Respondent has been convicted of crimes which are substantially related to the qualifications, functions and duties of a public health nurse, as set forth in Factual Findings 4, 5, 6 and 7.

3. Pursuant to Business and Professions Code section 125.3, Complainant is entitled to recover reasonable costs of prosecution of this matter in the amount of \$4,166.00, as set forth in Factual Findings 16 and 17.

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4a. According to the criteria set forth in California Code of Regulations, title 16, section 1445, subdivision (b), Respondent has established minimal rehabilitation.² Over three years have elapsed since the commission of Respondent's crimes. Additionally, the crimes appear to be an anomaly in Respondent's otherwise law-abiding and upstanding life. It is noted that the crimes involved a grossly negligent disregard for human life and flight from the scene of the accident without attempting to render aid, both traits which are most undesirable in RNs. However, Respondent has a 48-year history of nursing, 16 of those years in California, which is untainted by any gross negligence or abandonment of responsibility with respect to her nursing duties. Respondent's unlawful behavior as a motorist and a citizen does not necessarily illustrate that Respondent is now unsafe as a nurse. However, the potential that her undesirable traits may filter into her workplace does require some type of scrutiny to ensure that Respondent's professional life remains as untainted as it was before her crimes.

4b. Respondent has made some progress toward rehabilitation in expressing remorse for the bicyclist's death and in admitting she caused his death. Despite this admission, Respondent is still unable or unwilling to admit to the details of her crimes. Artificial acts of contrition are not required in a disciplinary proceeding when the respondent truly believes she is not guilty of the crime charged. (*Calaway v. State Bar* (1986) 41 Cal.3d 743, 747-748.) However, in this case, despite strong evidence belying her position, Respondent cannot accept responsibility for the wrongfulness of her actions which led up to and following her victim's death. While this specific blame-aversion does not necessarily impede Respondent's ability to practice nursing in a safe manner, safeguards should be put in place to prevent this problem from affecting her nursing.

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² California Code of Regulations, title 16, section 1445, subdivision (b), provides:

When considering the suspension or revocation of a license on the grounds that a registered nurse has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his/her eligibility for a license will consider the following criteria:

- (1) Nature and severity of the act(s) or offense(s).
- (2) Total criminal record.
- (3) The time that has elapsed since commission of the act(s) or offense(s).
- (4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.
- (5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.
- (6) Evidence, if any, of rehabilitation submitted by the licensee.

5. Under all of the circumstances of this case, outright revocation would be overly harsh and punitive and is therefore unjustified. A properly conditioned probationary period is more appropriate and should serve to adequately protect the public health, safety and welfare. However, Respondent should be separated from nursing for a brief time to afford her the opportunity to address her blame-aversion and to ensure that safeguards and supports are in place prior to Respondent re-entering the practice of nursing.

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

IT IS HEREBY ORDERED that Registered Nurse License Number 386118, issued to Respondent, is revoked. **IT IS FURTHER ORDERED THAT** and Public Health Nurse Certificate No. 46283, issued to Respondent, is revoked. However, the revocations are stayed and respondent is placed on probation for five years on the following conditions.

(1) ACTUAL SUSPENSION OF LICENSE

Respondent is suspended from the practice of registered nursing for six months, beginning the effective date of this decision.

During the suspension period, all probation conditions are in full force and effect except those relating to actual nursing practice. This period of suspension will not apply to the reduction of this probationary time period.

(2) OBEY ALL LAWS

Respondent shall obey all federal, state and local laws. A full and detailed account of any and all violations of law shall be reported by the respondent to the Board in writing within 72 hours of occurrence. To permit monitoring of compliance with this condition, Respondent shall submit completed fingerprint forms and fingerprint fees within 45 days of the effective date of the decision, unless previously submitted as part of the licensure application process.

CRIMINAL COURT ORDERS: If Respondent is under criminal court orders, including probation or parole, and the order is violated, this shall be deemed a violation of these probation conditions, and may result in the filing of an accusation and/or petition to revoke probation.

(3) COMPLY WITH THE BOARD'S PROBATION PROGRAM

Respondent shall fully comply with the conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the Respondent's compliance with the Board's Probation Program. Respondent shall inform the Board in writing within no more than 15 days of any address

change and shall at all times maintain an active, current license status with the Board, including during any period of suspension.

Upon successful completion of probation, Respondent's license shall be fully restored.

(4) REPORT IN PERSON

Respondent, during the period of probation, shall appear in person at interviews/meetings as directed by the Board or its designated representatives.

(5) RESIDENCY, PRACTICE, OR LICENSURE OUTSIDE OF STATE

Periods of residency or practice as a registered nurse outside of California shall not apply toward a reduction of this probation time period. Respondent's probation is tolled, if and when she resides outside of California. Respondent must provide written notice to the Board within 15 days of any change of residency or practice outside the state, and within 30 days prior to re-establishing residency or returning to practice in this state.

Respondent shall provide a list of all states and territories where she has ever been licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide information regarding the status of each license and any changes in such license status during the term of probation. Respondent shall inform the Board if she applies for or obtains a new nursing license during the term of probation.

(6) SUBMIT WRITTEN REPORTS

Respondent, during the period of probation, shall submit or cause to be submitted such written reports/declarations and verification of actions under penalty of perjury, as required by the Board. These reports/declarations shall contain statements relative to Respondent's compliance with all the conditions of the Board's Probation Program. Respondent shall immediately execute all release of information forms as may be required by the Board or its representatives.

Respondent shall provide a copy of this decision to the nursing regulatory agency in every state and territory in which she has a registered nurse license.

(7) FUNCTION AS A REGISTERED NURSE

Respondent, during the period of probation, shall engage in the practice of registered nursing in California for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

For purposes of compliance with the section, “engage in the practice of registered nursing” may include, when approved by the Board, volunteer work as a registered nurse, or work in any non-direct patient care position that requires licensure as a registered nurse.

The Board may require that advanced practice nurses engage in advanced practice nursing for a minimum of 24 hours per week for six consecutive months or as determined by the Board.

If Respondent has not complied with this condition during the probationary term, and the respondent has presented sufficient documentation of her good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of the Respondent’s probation period up to one year without further hearing in order to comply with this condition. During the one year extension, all original conditions of probation shall apply.

(8) EMPLOYMENT APPROVAL AND REPORTING REQUIREMENTS

Respondent shall obtain prior approval from the Board before commencing or continuing any employment, paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all performance evaluations and other employment related reports as a registered nurse upon request of the Board.

Respondent shall provide a copy of this decision to her employer and immediate supervisors prior to commencement of any nursing or other health care related employment.

In addition to the above, Respondent shall notify the Board in writing within 72 hours after she obtains any nursing or other health care related employment. Respondent shall notify the Board in writing within 72 hours after she is terminated or separated, regardless of cause, from any nursing, or other health care related employment with a full explanation of the circumstances surrounding the termination or separation.

(9) SUPERVISION

Respondent shall obtain prior approval from the Board regarding Respondent’s level of supervision and/or collaboration before commencing or continuing any employment as a registered nurse, or education and training that includes patient care.

Respondent shall practice only under the direct supervision of a registered nurse in good standing (no current discipline) with the Board of Registered Nursing, unless alternative methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are approved.

Respondent’s level of supervision and/or collaboration may include, but is not limited to the following:

(a) Maximum - The individual providing supervision and/or collaboration is present in the patient care area or in any other work setting at all times.

(b) Moderate - The individual providing supervision and/or collaboration is in the patient care unit or in any other work setting at least half the hours Respondent works.

(c) Minimum - The individual providing supervision and/or collaboration has person-to-person communication with Respondent at least twice during each shift worked.

(d) Home Health Care - If Respondent is approved to work in the home health care setting, the individual providing supervision and/or collaboration shall have person-to-person communication with Respondent as required by the Board each work day. Respondent shall maintain telephone or other telecommunication contact with the individual providing supervision and/or collaboration as required by the Board during each work day. The individual providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to patients' homes visited by the respondent with or without respondent present.

(10) EMPLOYMENT LIMITATIONS

Respondent shall not work for a nurse's registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse, or for an in-house nursing pool.

Respondent shall not work for a licensed home health agency as a visiting nurse unless the registered nursing supervision and other protections for home visits have been approved by the Board. Respondent shall not work in any other registered nursing occupation where home visits are required.

Respondent shall not work in any health care setting as a supervisor of registered nurses. The Board may additionally restrict Respondent from supervising licensed vocational nurses and/or unlicensed assistive personnel on a case-by-case basis.

Respondent shall not work as a faculty member in an approved school of nursing or as an instructor in a Board approved continuing education program.

Respondent shall work only on a regularly assigned, identified and predetermined worksite(s) and shall not work in a float capacity.

If Respondent is working or intends to work in excess of 40 hours per week, the Board may request documentation to determine whether there should be restrictions on the hours of work.

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(11) COMPLETE A NURSING COURSE(S)

Respondent, at her own expense, shall enroll and successfully complete a course(s) relevant to the practice of registered nursing no later than six months prior to the end of her probationary term.

Respondent shall obtain prior approval from the Board before enrolling in the course(s). Respondent shall submit to the Board the original transcripts or certificates of completion for the above required course(s). The Board shall return the original documents to Respondent after photocopying them for its records.

(12) COST RECOVERY

Respondent shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code Section 125.3 in the amount of **\$4,166.00**. Respondent shall be permitted to pay these costs in a payment plan approved by the Board, with payments to be completed no later than three months prior to the end of the probation term.

If Respondent has not complied with this condition during the probationary term, and Respondent has presented sufficient documentation of her good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of the Respondent's probation period up to one year without further hearing in order to comply with this condition. During the one year extension, all original conditions of probation will apply.

(13) VIOLATION OF PROBATION

If a Respondent violates the conditions of her probation, the Board after giving the respondent notice and an opportunity to be heard, may set aside the stay order and impose the stayed discipline (revocation/suspension) of the Respondent's license.

If during the period of probation, an accusation or petition to revoke probation has been filed against Respondent's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against the respondent's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the Board.

(14) LICENSE SURRENDER

During Respondent's term of probation, if she ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation, Respondent may surrender her license to the Board. The Board reserves the right to evaluate Respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances, without further hearing. Upon

formal acceptance of the tendered license and wall certificate, Respondent will no longer be subject to the conditions of probation.

Surrender of Respondent's license shall be considered a disciplinary action and shall become a part of Respondent's license history with the Board. A registered nurse whose license has been surrendered may petition the Board for reinstatement no sooner than the following minimum periods from the effective date of the disciplinary decision:

- (1) Two years for reinstatement of a license that was surrendered for any reason other than a mental or physical illness; or
- (2) One year for a license surrendered for a mental or physical illness.

(15) MENTAL HEALTH EXAMINATION

Respondent shall, within 45 days of the effective date of this decision, have a mental health examination including psychological testing as appropriate to determine her capability to perform the duties of a registered nurse. The examination will be performed by a psychiatrist, psychologist or other licensed mental health practitioner approved by the Board. The examining mental health practitioner will submit a written report of that assessment and recommendations to the Board. All costs are the responsibility of the Respondent. Recommendations for treatment, therapy or counseling made as a result of the mental health examination will be instituted and followed by the respondent.

If Respondent is determined to be unable to practice safely as a registered nurse, the licensed mental health care practitioner making this determination shall immediately notify the Board and Respondent by telephone, and the Board shall request that the Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall immediately cease practice and may not resume practice until notified by the Board. During this period of suspension, Respondent shall not engage in any practice for which a license issued by the Board is required, until the Board has notified Respondent that a mental health determination permits Respondent to resume practice. This period of suspension will not apply to the reduction of this probationary time period.

If the Respondent fails to have the above assessment submitted to the Board within the 45-day requirement, Respondent shall immediately cease practice and shall not resume practice until notified by the Board. This period of suspension will not apply to the reduction of this probationary time period. The Board may waive or postpone this suspension only if significant, documented evidence of mitigation is provided. Such evidence must establish good faith efforts by the Respondent to obtain the assessment, and a specific date for compliance must be provided. Only one such waiver or extension may be permitted.

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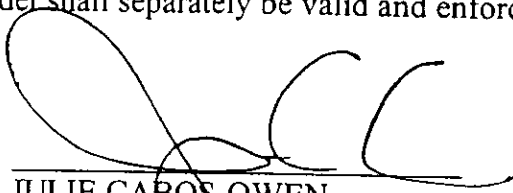
(16) THERAPY OR COUNSELING PROGRAM

Respondent, at her expense, shall participate in an on-going counseling program until such time as the Board releases her from this requirement and only upon the recommendation of the counselor. Written progress reports from the counselor will be required at various intervals.

(17) SEVERABILITY CLAUSE

Each condition of probation contained herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

DATED: November 1, 2005



JULIE CABOS-OWEN
Administrative Law Judge
Office of Administrative Hearings

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9
10 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2005-110

13 ANNE MARIE HEGARTY
9522 Joyzelle Drive
14 Garden Grove, CA 92641

A C C U S A T I O N

15 Registered Nurse License No. 386118
Public Health Nurse Certificate No. 46283

16
17 Respondent.

18 Complainant alleges:

19 **PARTIES**

20 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs.

23 2. On or about June 30, 1985, the Board of Registered Nursing issued Registered
24 Nurse license number 386118 to Anne Marie Hegarty (Respondent). The Registered Nurse
25 license was in full force and effect at all times relevant to the charges brought herein and will
26 expire in February 28, 2005, unless renewed.

27 3. On or about June 5, 1990, the Board of Registered Nursing issued Public Health
28 Nurse certificate number 46283 to Respondent. The Public Health Nurse certificate was in full

1 force and effect at all times relevant to the charges brought herein and will expire on February
2 28, 2005, unless renewed.

3 **JURISDICTION**

4 4. This Accusation is brought before the Board of Registered Nursing (Board),
5 Department of Consumer Affairs, under the authority of the following sections of the Business
6 and Professions Code:

7 A. Section 2761 of the Code states in pertinent part:

8 "The board may take disciplinary action against a certified or licensed nurse or deny an
9 application for a certificate or license for any of the following:

10 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

11 "..."

12 "(f) Conviction of a felony or of any offense substantially related to the qualifications,
13 functions, and duties of a registered nurse, in which event the record of the conviction shall be
14 conclusive evidence thereof.

15 "..."

16 B. Section 125.3 of the Code provides, in pertinent part, that the Board may request
17 the administrative law judge to direct a licensee found to have committed a violation or
18 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
19 and enforcement of the case.

20 **CHARGES AND ALLEGATIONS**

21 **Cause for Discipline**

22 **(Unprofessional Conduct: Conviction of a Substantially Related Crime)**

23 5. Respondent is subject to disciplinary action under section 2761(f) in that she has
24 been convicted of a crime substantially related to the qualifications, functions, or duties of the
25 license and certificate she holds. The circumstances are as follows:

26 A. On or about November, 25, 2003, in Orange County Superior Court Case No.
27 02WF0760 F A, *People v. Anne Marie Hegarty*, Respondent was convicted of
28 violating Vehicle Code §20001(a) (hit and run with injury/death) and of violating

1 Penal Code §192(c)(1) (vehicular manslaughter).

2 B. The facts and circumstances surrounding the crimes are summarized as follows:
3 on or about January 23, 2002 at approximately 6:30 p.m., Respondent drove her
4 car through a solid red light at the intersection of Katella Avenue and Dale Street
5 in Garden Grove, California at approximately 40-50 mph. She hit and killed a
6 bicyclist. She did not stop for the collision and fled the scene. She did not stop
7 until pursued by an off-duty police officer who witnessed the hit and run and who
8 ordered her to stop her car.

9 C. When stopped by the off-duty police officer, Respondent denied any knowledge
10 of her car hitting anyone or anything.

11 D. Respondent was sentenced to 365 days in jail with credit for 162 days served; 5
12 years formal probation; to pay \$500 in restitution; to do 250 hours of community
13 service; and other terms and conditions.

14 **FACTOR IN AGGRAVATION**

15 6. Respondent wrote a letter of explanation to the Board's personnel, dated April 16,
16 2004. In that letter, she claimed that the 15-year old bicyclist ran into her, not that she ran into
17 him. This assertion was false and an attempt to blame the victim for Respondent's own gross
18 negligence in hitting and killing the young man.

19 **PRAYER**

20 WHEREFORE, Complainant requests that a hearing be held on the matters herein
21 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

22 1. Revoking or suspending Registered Nurse License Number 386118, issued to
23 Anne Marie Hegarty;

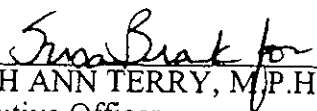
24 2. Revoking or suspending Public Health Nurse Certificate Number 46283, issued to
25 Anne Marie Hegarty;

26 3. Ordering Anne Marie Hegarty to pay the Board of Registered Nursing the
27 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
28 Professions Code section 125.3;

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4. Taking such other and further action as deemed necessary and proper.

DATED: 1/5/05


RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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